



October 17, 2017

Linda Candelaria, PhD
California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Re: Basin Plan Amendments to Incorporate Total Maximum Daily Loads for Copper and Non-TMDL Action Plans for Other Metals in Newport Bay

Ms. Candelaria:

BoatU.S. is the largest organization of recreational boat owners in the United States, with more than 550,000 members nationwide and over 57,000 members in California. On behalf of our members, we would like to register our significant concern with the proposed amendments to incorporate a Total Maximum Daily Load (TMDL) for copper in Newport Harbor. As drafted, these amendments could impose a significant burden on boat owners in order to meet the TMDL.

By way of background, we note that seventy percent of the nation's boat owners have an annual household income of less than \$100,000. Boating is a healthy family activity connecting children with nature and promoting physical fitness for all. For many families, their boat is the single biggest investment they make in family recreation.

Antifouling paints are necessary for any vessel left in the water to deter growth of marine organisms. These vessels range from a trailerable boat left in the water for a week or a larger cruising sailboat left in the water all season to a commercial tug or container ship, which is in the water year round. The use of antifouling paint is fundamental to the proper maintenance and performance of almost all watercraft. Currently, copper is the primary anti-fouling active ingredient in use.

BoatU.S. has worked on the issue of antifouling paints and other bottom coatings for more than a decade, and based on that experience we have severe reservations with the draft basin plan amendment. Our primary interest is to ensure that boaters have effective, affordable and available anti-fouling options. The Board should consider the following:

- Recreational boats have a very wide range of operating characteristics and thus require a number of different antifouling paint options. For example, according to studies by the national Sea Grant program conducted over 10 years in San Diego Bay, nontoxic bottom coatings (i.e. Teflon or ceramic coatings) are only effective for boats that regularly get used – they need to leave their slips and attain speeds of at least 8 knots. The slick surface allows slime to slip off but only if the boat is used regularly at speed. They do not work for a sailboat that operates at slower speeds, or any boat that only leaves the dock once a week. It is important that a

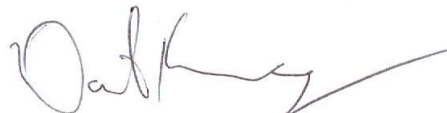
range of effective coatings be available for the many different types of boats and boat uses.

- Effective antifouling paints help to prevent the spread of invasive species, lengthen boat life, reduce maintenance costs, and increase fuel efficiency. Antifouling paints have been a key part of reducing the spread of invasive species nationwide. According to the International Union for the Conservation of Nature (IUCN), “In the absence of anti-foulants that are as effective, it is likely fouling will increase and that more species will be transported this way in the future.”
- The proposal for 83% of all vessels in Newport Harbor utilize copper free antifouling paint to achieve water quality objectives is a drastic measure. It disregards other methods for reducing copper discharges such as best management practice for in-water hull cleaning, treatment of land-based process water, and low-leach rate copper paints.
- While alternative anti-foulants such as Ecomea™ and zinc are available, they do not always meet the various operating characteristics and maintenance regimes of many boaters. Studies of some of these products have found them to have a wide range of effectiveness. It should also be noted that these products are only in a limited number of approved anti-fouling paints.
- We are opposed to the specific identification of individual boat owners as being dischargers responsible for reducing copper loads and correcting sediment impairments. The possibility that individual boat owners could be named as “responsible parties” and potentially subjected to permitting requirements and their attendant costs is particularly alarming.

BoatU.S. was a very active participant in the passage of the Federal Clean Boating Act in 2008 that specifically provides that recreational vessels shall not be subject to the requirement to obtain a Clean Water Act permit to authorize discharges incidental to their normal operation. We are not only on the water, but also often in the water and eating fish that live in the water. It will be difficult for this user group to accept regulations and policies that are not fully supported by science, cost effective and reasonable to achieve.

On behalf of our boat-owning members, thank you for the opportunity comment on this proposal. Please feel free to contact us for any needed clarifications or for further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Kennedy', with a long horizontal flourish extending to the right.

David B. Kennedy
BoatU.S. Government Affairs